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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,307	12/29/2000	Jerry Dwight Doty II	2705-101	7831

20575   7590   01/03/2008
MARGER JOHNSON & MCCOLLOM, P.C.
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EXAMINER
LE, KAREN L

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
01/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

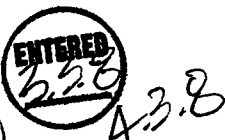The time period for reply, if any, is set in the attached communication.

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PTOL-90A (Rev. 04/07)

	Application No.	**Applicant(s)**
Office Action Summary	09/753,307	DOTY ET AL.
	Examiner	**Art Unit**
	Karen L. Le	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *15 October 2007*.

2a)☒ This action is **FINAL**.　　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

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DETAILED ACTION

1. This action is final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chong et al. (U. S. 6,205,557) in view of Denby et al (US 6,976,062).

Regarding claims 1 and 9, Chong teaches a method and a computer-readable medium for switching active calls between entities (fig.3, server 140 and server 141 of database 103) on a network device (Fig. 2, item 103), the method comprising:

collecting information about a current call on the first processor while the current call is being processed by a first entity (Fig. 3, server 140 and col. 5, lines 7-16), initializing a second processor (Fig. 3, server 141) residing in the network device with the first processor (Col. 5, lines 22-23) with the information while the current call is being processed on the first processor, switching the current call from the first processor to the second processor; releasing the first processor from further processing of the call, and repeating the switching of call from the first processor until the first processor is free for maintenance (Col. 5, lines 18-19 and lines).

Chong does not teach determining that a time has been reached for an upgrade of firmware on a first processor that is still actively handling calls. However, Denby teaches determining that a time has been reached for an upgrade of firmware on a first processor that is still actively handling calls (See Col. 1, lines 64- Col. 2, lines 46). Denby teaches the automated software upgrade utility allows a customer, product supplier or software vendor to upgrade the operating system, firmware, applications and data files on any product. The upgrade utility may reside with the product supplier and periodically locate remote products and perform the upgrade process. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teach of Denby into Chong's system in order to determine that an upgrade time has arrived. When the detection method in Chong is applied earlier (apply before the processor is failed) then all calls that are transferred will also include all active calls at the time the second server is being initialized. It is extremely old and well known in the art of telephony (and other arts) that when a unit needs upgrading, other unit(s) should "take over" any function(s) of the unit to be upgraded.

Regarding claims 2-4 and 15-18, Chong teaches the processors are digital signal processors located within the same module, the processors are located in different modules located on the same card, and the processors are located on different cards in the network device (Fig.2, DB 103; Fig. 3, server 140 and 141; Fig. 4, processors 170 of 140 and 141).

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Regarding claim 6, Chong further teaches initializing a second processor further comprises initiating a retrain sequence on the second entity (Col. 5, lines 22-30).

Regarding claim 7, Chong further teaches the information about a current call includes modulation (Col. 2, lines 43-44)

Regarding claims 10 and 11, Chong further teaches the computer-readable medium comprises a downloadable file and image file upload able into digital signal processor (Col. 6, lines 56-67).

Regarding claims 12 and 14, Chong further teaches a network device, comprising: at least two means for handling active calls residing in the network device (fig.3, item server 140 and server 141 of database 103 and Fig. 1, switching network 100), a means for connecting the means for handling active calls with means for transmitting phone calls (col. 5, lines 16-19); a means for switching active calls from a first processing means for handling active calls to another processing means for handling active calls without interruption, thereby eliminating any active calls on the first means for handling active calls and freeing the first processing means for maintenance (Col. 5, Lines 23-32 and Col. 1, Lines 5-10).

Chong does not teach a means for determining that a time has been reached for an upgrade to a first processing mean that is actively handling calls. However Denby

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teaches a means for determining that a time has been reached for an upgrade to a first

processing mean that is actively handling calls (See Col. 1, lines 64- Col. 2, lines 46).

Denby teaches the automated software upgrade utility allows a customer, product

supplier or software vendor to upgrade the operating system, firmware, applications and

data files on any product. The upgrade utility may reside with the product supplier and

periodically locate remote products and perform the upgrade process. Thus it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to incorporate the teach of Denby into Chong's system in order to determine that an

upgrade time has arrived. When the detection method in Chong is applied earlier (apply

before the processor is failed) then all calls that are transferred will also include all

active calls at the time the second server is being initialized. It is so simple to

understand that it is depend on when detection method is applied (before or after the

processor is failed) to provide the maintenance or repairing.

Regarding claim 13, Chong further teaches the device of claim 10 wherein the

controller is part of a processor located on one of the entities (Fig. 2, item 103).

Regarding claim 19, Chong further teaches the means for switching active calls

further comprises a controller (Fig. 2, item 103).

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4.   Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chong et al. (U. S. 6,205,557) in view of Denby et al (US 6,976,062) and further in view

of Zeck (US 2002/0101605).

Regarding claims 5 and 8, Chong does not teach the steps of copying

compression dictionary tables from the first entity and loading compression tables in

the second entity. However, Zeck teach the steps of copying compression dictionary

tables from the first entity and loading compression tables in the second entity (See

Paragraph 24 and 25). Zeck teaches a method for compressing and decompressing

electronic documents, with improved compression and reduced history memory size

requirements. Thus, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to incorporate the dictionary compression method of

zeck into Chong's system in order to compress and decompress data while

transmission to have larger volume of data.

Chong does not teach the information about a current call includes country code.

However, each country uses different carriers, thus it would have been obvious to one

of ordinary skill in the art at the time the invention was made to include type of country

code to verify what type of carrier that country uses. Information about country code

are old and well know in telecommunication system.

Response to Arguments

Applicant's arguments filed 10/15/07 with respect to claims 1-19 have been fully

considered but they are not persuasive.

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As to Applicant's remarks, Applicant mainly argues that Chong does not teach initializing a second processor while a current call is being processed on a first processor, and does not teach repeating the transfer of calls. Denby does not teach initialization a second processor and transferring calls. Examiner respectfully disagrees for the following reasons: Chong did teach initializing a second processor and transfer calls from active call server to standby call server when active call server failure. Denby teaches automated upgrading process and periodically query the product supplier for firmware upgrades. Denby is the secondary reference, and it does not have to be bodily incorporated in the primary reference. When the detection method in Chong is applied periodically as teaches by Denby, then the active call server is still in good working condition when a second processor (or standby processor) is initialized and transferring all calls to second processor will happen without any problems. . This is simply that when a unit needs upgrading, other unit should take over any function(s) of the unit to be upgrade.

Applicant further argues that Zech does not teach copying compression dictionary tables from a first entity into a second entity. Examiner respectfully disagrees for the following reason: Zech does teach dictionary compression method. Chong teaches transferring calls from first entity to second entity. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the dictionary compression method of Zech into Chong's system in order to compress and decompress data while transmission to have larger volume of data.

Again, Zech is the secondary reference, and it does not have to be bodily incorporated

in the primary reference.

For above reasons, Chong, Denby and Zech are maintained for supporting the

enclosed Examiner's Final action.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded

of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Karen L. Le whose telephone number is 571-272-7487.

The examiner can normally be reached on Mon and Thurs: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ahmad F. Matar can be reached on 571-272-7493. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karen Le
KLL

December 21, 2007

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ISSUE SLIP STAPLE AREA (for additional cross references)

POSITION	INITIALS	ID NO.	DATE
FEE DETERMINATION			
O.I.P.E. CLASSIFIER		47	2/1/01
FORMALITY REVIEW	JK	BJS	02/27/01
RESPONSE FORMALITY REVIEW			

INDEX OF CLAIMS

✓	Rejected	N	Non-elected	
=	Allowed	I	Interference	
− (Through numeral)	Cancelled	A	Appeal	
+	Restricted	O	Objected	

If more than 150 claims or 10 actions
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SEARCHED

Class	Sub.	Date	Exmr.
379	284	7/11/03	K·L
↓	286		
	43309		
370	963	↓	↓
370	225		
updated Search East	2/20/04	K·L.
updated Search East	4/15/05	K·L
Updated Search East	9/5/06	K·L.
Updated Search	2/20/07	K·L.
Updated Search	7/23/07	K·L

INTERFERENCE SEARCHED

Class	Sub.	Date	Exmr.

(RIGHT OUTSIDE)

SEARCH NOTES
(INCLUDING SEARCH STRATEGY)

	Date	Exmr.
	7/11/03	K·L.
Consulted with Ahmad Matar	2/20/04	K·L.
Consulted with Ahmad Matar	4/15/05	K·L.
	3/18/06	K·L.
Consulted TQAS R. Eisenzopf regarding claims 9, 10 on 101 issues.	9/5/06	K·L
Consulted with Ahmad Matar	2/20/07	R·L.
East	7/23/07	K·L.
East	12/21/07	K·L.

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